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7 **UNITED STATES BANKRUPTCY COURT**

8 **SOUTHERN DISTRICT OF CALIFORNIA**

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10 In re:

11 SARA NEWSOME BURNS,

12 Debtor.

13) CASE NO. 99-00811-B1

14) MEMORANDUM OF
15) POINTS & AUTHORITIES
16) FOR APPLICATION FOR
17) ORDER AUTHORIZING
18) PAYMENT TO TRUSTEE

19 Date: N/A

20 Time: N/A

21 Ctrm: 4

22 Hon. Peter Bowie

23 Creditor Bradley Proulx hereby submits the following memorandum of points
24 and authorities in support of his ex parte application for an order authorizing
25 payment to the Chapter 13 Trustee on monies owed to Debtor.

26 **FACTUAL BACKGROUND**

27 Creditor Bradley Proulx obtained a Judgment in State Court for \$231,462.61
28 on October 30, 1998, against Debtor SARA NEWSOME BURNS. See Exhibit "1."
29 The Judgment was based upon Plaintiff BURN's refusal and/or failure to pay
30 Proulx, her investigator, for services which he provided and which directly resulted
31 in her recovering \$580,000 in a federal court action. Subsequently, Creditor
32 obtained a Turnover Order for the final portion of settlement monies due to Debtor.
33 See Exhibit "2." Finally, he filed a Lien on the Federal Court action requiring
34 payment be made to him, not Debtor. See Exhibit "3."

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1 Debtor admits she already received over \$400,000 of \$580,000 owed on a
 2 settlement in Federal Court. Creditor confirmed from the United States of America
 3 that a final payment of over \$150,000 to \$200,000 was being wire transferred to
 4 Debtor, but was frozen at the last hour based upon Creditor's Lien and ex parte
 5 application in District Court for payment. See Declaration of Bryan D. Sampson.

6 In response to the foregoing, Debtor Burns filed this Chapter 13 action. See
 7 Court records. Unfortunately, she appears to have overlooked her "receivable" of
 8 between \$150,000 to \$200,000 from the government. Her petition lists less than
 9 \$50,000 in assets. See Exhibit "4" and Court Records.

10 Based upon the foregoing, Creditor Proulx requests this Court issue an
 11 Order directing the government to pay the Chapter 13 Trustee and to relieve the
 12 government of liability.

13 **LEGAL ARGUMENT**

14 As the Court is aware, Debtor's Chapter 13 petition invokes the powers of
 15 this court and the Chapter 13 Trustee to recover assets for the estate. See 11 USC
 16 §§541, 542 & 1306.

17 BURNS received over \$400,000 from a federal court lawsuit. See attached
 18 Declaration of Bryan D. Sampson. She expects to receive another \$150,000 to
 19 \$200,000. However, she forgot to include this "receivable" in her bankruptcy estate.
 20 See Exhibit "4." Thus, Creditor requests an order allowing the government to pay
 21 the Chapter 13 Trustee to avoid dissipation of funds.

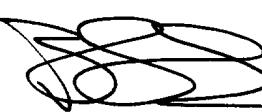
22 **CONCLUSION**

23 Based upon the foregoing, Creditor Proulx respectfully requests this Court
 24 issue the attached, proposed Order.

25 DATED: February 1, 1999

26 **SAMPSON & ASSOCIATES**

27 By:

28 
 Bryan D. Sampson
 Attorney for Creditor Proulx